

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

WILLIE EARL BAKER,

Plaintiff,

No. CIV S-09-2432 KJM P

vs.

GREGORY C. WARDE et al.,

Defendants.

ORDER

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Plaintiff, a state prisoner proceeding pro se, has filed a civil rights action pursuant to 42 U.S.C. § 1983, together with a request to proceed in forma pauperis. In light of 1996 amendments to 28 U.S.C. § 1915, this court will not rule on plaintiff's request to proceed in forma pauperis. In addition, plaintiff has filed a motion for the appointment of counsel which this court will not address.

The federal venue statute requires that a civil action, other than one based on diversity jurisdiction, be brought only in "(1) a judicial district where any defendant resides, if all defendants reside in the same State, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought." 28 U.S.C. § 1391(b).

1 In this case, the defendant(s) are located and the claim arose in Marin County,  
2 which is in the Northern District of California. Therefore, plaintiff's claim should have been  
3 filed in the United States District Court for the Northern District of California. In the interest of  
4 justice, a federal court may transfer a complaint filed in the wrong district to the correct district.  
5 See 28 U.S.C. § 1406(a); Starnes v. McGuire, 512 F.2d 918, 932 (D.C. Cir. 1974).

6 Accordingly, IT IS HEREBY ORDERED that:

7 1. This court has not ruled on plaintiff's request to proceed in forma pauperis or  
8 his motion for the appointment of counsel; and

9 2. This matter is transferred to the United States District Court for the Norther  
10 District of California.

11 DATED: October 13, 2009.

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13 U.S. MAGISTRATE JUDGE

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15 bake2432.21a